

PreK-12 Appropriations Subcommittee

Meeting Packet

**April 8, 2011
9:30 a.m. – 10:15 a.m.
Morris Hall**



The Florida House of Representatives
APPROPRIATION COMMITTEE

PreK-12 Appropriations Subcommittee

Dean Cannon
Speaker

Marti Coley
Chair

MEETING AGENDA

Morris Hall
April 8, 2011



- I.** Meeting Called To Order
- II.** Opening Remarks by Chair
- III.** Consideration of the following bills:
- IV.** CS/HB 1329 – John M. McKay Scholarships for Students with Disabilities Program by Rep. Bileca and others
- V.** Meeting Adjourned

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1329 John M. McKay Scholarships for Students with Disabilities Program

SPONSOR(S): K-20 Innovation Subcommittee; Bileca and others

TIED BILLS: IDEN./SIM. BILLS: SB 1656

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) K-20 Innovation Subcommittee	14 Y, 0 N, As CS	Ourand	Sherry
2) PreK-12 Appropriations Subcommittee		Seifert 	Heflin 
3) Education Committee			

SUMMARY ANALYSIS

The bill expands the eligibility for John M. McKay Scholarships to students who have been issued a 504 accommodation plan. However, the bill excludes students that have been issued a 504 plan with a duration of six months or less.

The bill maintains the requirement that school districts notify parents of all school choice options available to them by April 1 of each year and within ten days after an individual education plan (IEP) meeting; however, the bill also requires school districts to notify parents of all available choice options within 10 days after a 504 accommodation plan is issued.

The bill continues to authorize parents to enroll their children in a public school in an adjacent school district which has available space if the school has a program with the services agreed to in the student's IEP; however, the bill expands this to include schools with the services agreed to in the 504 accommodation plan. The bill continues to require the parent to provide transportation if the parent chooses this option.

The bill provides that the scholarship amount for a student eligible under s. 504 of the Rehabilitation Act will be based on the current student program cost factor generated by the student under the Florida Education Finance Program (FEFP). The amount of the scholarship for students with 504 accommodation plans will be equal to the amount of funding the school district currently receives for the student through the FEFP.

The bill provides an effective date of July 1, 2011.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Law

The John M. McKay Scholarships for Students with Disabilities Program (McKay Scholarship Program) provides scholarships for eligible students with disabilities¹ to attend an eligible public or private school of their choice.²

To be eligible to receive a McKay scholarship, the student must:

- Have received specialized instructional services under the Voluntary Prekindergarten Education Program during the previous school year and have a current individual educational plan (IEP);³
- Have spent the prior school year in attendance at a Florida public school or the Florida School for the Deaf and the Blind; or
- Have been enrolled and reported by a school district for funding, during the October and February Florida Education Finance Program (FEFP) surveys, in any of the 5 years prior to 2010-11 fiscal year; have a current IEP no later than June 30, 2011; and receive a first-time McKay scholarship for the 2011-12 school year.⁴

Additionally, parents must obtain acceptance for admission to an eligible school and request a scholarship at least 60 days before the date of the first scholarship payment. Parents must make the request for a McKay scholarship directly to the Department of Education (DOE).⁵

Students are not eligible to receive McKay scholarships while they are enrolled in a Department of Juvenile Justice commitment program; receiving a Florida tax credit scholarship; receiving an Opportunity Scholarship; participating in a home education program; participating in a private tutoring program; participating in a virtual school, correspondence school, or distance learning program that receives state funding pursuant to the student's participation unless the participation is limited to no more than two courses per school year; enrolled in the Florida School for the Deaf and Blind; or do not have regular and direct contact with their private school teachers at the school's physical location.⁶

By April 1 of each year and within 10 days of an IEP meeting, the school district must:

- Notify parents of all options available under the McKay Scholarship program;

¹ Students with disabilities include K-12 students who are documented as having an intellectual disability; a speech impairment; a language impairment; a hearing impairment, including deafness; a visual impairment, including blindness; a dual sensory impairment; an orthopedic impairment; an other health impairment; an emotional or behavioral disability; a specific learning disability, including, but not limited to, dyslexia, dyscalculia, or developmental aphasia; a traumatic brain injury; a developmental delay; or autism spectrum disorder. Section 1002.39(1), F.S.

² Section 1002.39(1), F.S.

³ An IEP is a written statement developed by the student's school which consists of the following statements: the student's present levels of educational performance; annual goals, including short term instructional objectives; the specific special education and related services to be provided to the student and the extent to which the student will be able to participate in regular educational programs; the projected dates for initiation of services and the anticipated duration of the services; appropriate objective criteria and evaluation procedures and schedules for determining on at least an annual basis, whether short term instructional objectives are being achieved; and the needed transition services. Rule 6D-3.0021(1)(a), F.A.C.

⁴ Section 1002.39(2)(a), F.S.

⁵ Section 1002.39(2)(b), F.S.

⁶ Section 1002.39(3), F.S.

- Inform the parent of the availability of DOE's telephone hotline and website for additional information on the McKay Scholarship Program; and
- Offer the parent an opportunity to enroll their child in another public school within the district.⁷

Parents may choose to enroll their child in a public school in an adjacent school district which has available space if the school has a program with the services agreed to in the student's IEP. If a parent chooses this option, the parent is responsible for providing transportation. The adjacent school district must accept the student and report the student for purposes of receiving funding through the FEFP.⁸

School districts are required to complete a matrix of services⁹ for each student placed in an exceptional student education program.¹⁰ The matrix must assign the student to one of the levels of service as they existed prior to the 2000-2001 school year.¹¹ The scholarship amount is based in part on the matrix of services assigned to the student; however, if a matrix of services has not yet been assigned, the scholarship amount must be based on the matrix that assigns the student to support level I of service as it existed prior to the 2000-2001 school year until the school district completes the matrix for that student.¹² Additionally, the amount of the scholarship awarded to the student is supplemented by a calculation based partly on the matrix of services completed for that student.¹³

504 Accommodation Plans

The Rehabilitation Act of 1973 (Rehabilitation Act) defines the term individual with a disability to include individuals who have a physical or mental impairment that substantially limits one or more major life activities of the individual; who have a record of such impairment; or who are regarded as having such an impairment.¹⁴ Section 504 of the Rehabilitation Act specifies that "[n]o otherwise qualified individual with a disability in the United States . . . shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."¹⁵ The Rehabilitation Act provides individuals with disabilities the opportunity to participate in any activity receiving federal funding, including public education.¹⁶

A 504 Accommodation Plan is formulated by a team of parents, teachers, and other staff members for a student identified as an individual with a disability under the Rehabilitation Act. The plan provides a description of the accommodations the school will provide to the student.¹⁷ Students under a 504 plan do not receive additional funding above the base level under the FEFP. Generally, a student with a 504 plan does not have an IEP or a matrix of services.

⁷ Section 1002.39(5)(a)1., F.S.

⁸ Section 1002.39(5)(e), F.S.

⁹ The matrix of services form collects information about the student and his or her exceptionality and contains checklists of services in five domains: curriculum and learning environment; social/emotional behavior; independent functioning; health care; and communication. The matrix of services identifies and documents the services or supports that each exceptional student requires in order for his or her educational needs to be met. Matrixes are completed by trained school personnel at least annually and are based upon a student's IEP. Whenever a student's plan is reviewed, the student's matrix of services is also reviewed. Districts must ensure that matrixes reflect current services. *Exceptional Student Education/Florida Education Finance Program (ESE/FEFP) Matrix of Services*, Florida Department of Education, Bureau of Exceptional Education and Student Services, 2004 Revised Edition; reprinted 2006, at 5, 13-16.

¹⁰ Sections 1011.62(1)(e), F.S.; 1002.39(5)(b), F.S.

¹¹ Section 1002.39(5)(b), F.S.

¹² Section 1002.39(10)(a)4., F.S.

¹³ Section 1002.39(10)(a)2., F.S.

¹⁴ 29 U.S.C. § 705(20)(B), incorporating 42 U.S.C. § 12102 (1); 34 C.F.R. § 104.3(j).

¹⁵ 29 U.S.C. § 794(a); see also 34 C.F.R. § 104.4.

¹⁶ 34 C.F.R. § 104.2.

¹⁷ Florida Department of Education, *A Parent and Teacher Guide to Section 504: Frequently Asked Questions*, available at: www.fldoe.org/ese/pdf/504bro.pdf (last visited March 17, 2011). Examples of such accommodations include: permission to self-administer diabetes medication, special dietary considerations for allergies, and assistance with carrying books. Florida Department of Education, Bureau of Exceptional Education & Student Services, *Section 504*.

Effect of the Bill

The bill extends eligibility for McKay scholarships to students who have been issued a 504 accommodation plan. However, the bill excludes students that have been issued a 504 accommodation plan with a duration of six months or less.

The bill maintains the requirement that school districts notify parents of all school choice options available to them by April 1 of each year and within ten days after an IEP meeting; however, the bill also requires school districts to notify parents of all available choice options within 10 days after a 504 accommodation plan is issued.

The bill continues to authorize parents to enroll their children in a public school in an adjacent school district which has available space if the school has a program with the services agreed to in the student's IEP; however, the bill expands this to include schools with the services agreed to in the 504 accommodation plan. The bill continues to require the parent to provide transportation if the parent chooses this option.

The bill provides that the scholarship amount for a student eligible under s. 504 of the Rehabilitation Act will be based on the current student program cost factor generated by the student under the Florida Education Finance Program (FEFP). The amount of the scholarship for students with a 504 accommodation plans will be equal to the amount of funding the school district currently receives for the student through the FEFP.

B. SECTION DIRECTORY:

Section 1. Amends s. 1002.39, F.S. expanding eligibility for McKay Scholarships to students under certain 504 accommodation plans.

Section 2. Provides an effective date of July 1, 2011.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill expands the number of students eligible for the McKay scholarship and limits the scholarship to the amount of funding for the additional students to the amount they currently generate in the FEFP.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 28, 2011, the K-20 Innovation Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment removed eligibility for students with Tier 3 RTI plans and amended the amount of the scholarship received for students with a 504 plan. Previously, the scholarship was based on the matrix that assigned the student to support level I of service as it existed prior to the 2000-2001 school year. The scholarship is now based on the current student program cost factor the student generates through the Florida Education Finance Program.

1 A bill to be entitled
2 An act relating to the John M. McKay Scholarships for
3 Students with Disabilities Program; amending s. 1002.39,
4 F.S.; making scholarships available to students with
5 disabilities who have a 504 accommodation plan issued
6 under s. 504 of the federal Rehabilitation Act; allowing a
7 parent to request and receive a scholarship for a student
8 to enroll in and attend a private school if the student
9 has a 504 accommodation plan; providing that students with
10 certain temporary 504 accommodation plans are ineligible
11 for a scholarship; requiring that the school district
12 notify a parent of available options within 10 days after
13 a 504 accommodation plan is issued; providing that a
14 parent may choose to enroll the student in a public school
15 in an adjacent district under certain conditions;
16 providing for scholarship amounts; providing an effective
17 date.

18
19 Be It Enacted by the Legislature of the State of Florida:

20
21 Section 1. Subsection (1), paragraph (a) of subsection
22 (2), subsection (3), paragraphs (a) and (e) of subsection (5),
23 and paragraph (a) of subsection (10) of section 1002.39, Florida
24 Statutes, are amended to read:

25 1002.39 The John M. McKay Scholarships for Students with
26 Disabilities Program.—There is established a program that is
27 separate and distinct from the Opportunity Scholarship Program

28 | and is named the John M. McKay Scholarships for Students with
 29 | Disabilities Program.

30 | (1) THE JOHN M. MCKAY SCHOLARSHIPS FOR STUDENTS WITH
 31 | DISABILITIES PROGRAM.—The John M. McKay Scholarships for
 32 | Students with Disabilities Program is established to provide the
 33 | option to attend a public school other than the one to which
 34 | assigned, or to provide a scholarship to a private school of
 35 | choice, for students with disabilities for whom:

36 | (a) An individual educational plan has been written in
 37 | accordance with rules of the State Board of Education; or

38 | (b) A 504 accommodation plan has been issued under s. 504
 39 | of the Rehabilitation Act of 1973.

40 |
 41 | Students with disabilities include K-12 students who are
 42 | documented as having an intellectual disability; a speech
 43 | impairment; a language impairment; a hearing impairment,
 44 | including deafness; a visual impairment, including blindness; a
 45 | dual sensory impairment; an orthopedic impairment; an other
 46 | health impairment; an emotional or behavioral disability; a
 47 | specific learning disability, including, but not limited to,
 48 | dyslexia, dyscalculia, or developmental aphasia; a traumatic
 49 | brain injury; a developmental delay; or autism spectrum
 50 | disorder.

51 | (2) JOHN M. MCKAY SCHOLARSHIP ELIGIBILITY.—The parent of a
 52 | student with a disability may request and receive from the state
 53 | a John M. McKay Scholarship for the child to enroll in and
 54 | attend a private school in accordance with this section if:

55 | (a) The student has:

56 1. Received specialized instructional services under the
 57 Voluntary Prekindergarten Education Program pursuant to s.
 58 1002.66 during the previous school year and the student has a
 59 current individual educational plan developed by the local
 60 school board in accordance with rules of the State Board of
 61 Education for the John M. McKay Scholarships for Students with
 62 Disabilities Program or a 504 accommodation plan has been issued
 63 under s. 504 of the Rehabilitation Act of 1973;

64 2. Spent the prior school year in attendance at a Florida
 65 public school or the Florida School for the Deaf and the Blind.
 66 For purposes of this subparagraph, prior school year in
 67 attendance means that the student was enrolled and reported by:

68 a. A school district for funding during the preceding
 69 October and February Florida Education Finance Program surveys
 70 in kindergarten through grade 12, which includes time spent in a
 71 Department of Juvenile Justice commitment program if funded
 72 under the Florida Education Finance Program;

73 b. The Florida School for the Deaf and the Blind during
 74 the preceding October and February student membership surveys in
 75 kindergarten through grade 12; or

76 c. A school district for funding during the preceding
 77 October and February Florida Education Finance Program surveys,
 78 was at least 4 years of age when so enrolled and reported, and
 79 was eligible for services under s. 1003.21(1)(e); or

80 3. Been enrolled and reported by a school district for
 81 funding, during the October and February Florida Education
 82 Finance Program surveys, in any of the 5 years prior to the
 83 2010-2011 fiscal year; has a current individualized educational

84 plan developed by the district school board in accordance with
 85 rules of the State Board of Education for the John M. McKay
 86 Scholarship Program no later than June 30, 2011; and receives a
 87 first-time John M. McKay scholarship for the 2011-2012 school
 88 year. Upon request of the parent, the local school district
 89 shall complete a matrix of services as required in subparagraph
 90 (5)(b)1. for a student requesting a current individualized
 91 educational plan in accordance with the provisions of this
 92 subparagraph.

93

94 However, a dependent child of a member of the United States
 95 Armed Forces who transfers to a school in this state from out of
 96 state or from a foreign country due to a parent's permanent
 97 change of station orders is exempt from this paragraph but must
 98 meet all other eligibility requirements to participate in the
 99 program.

100 (3) JOHN M. MCKAY SCHOLARSHIP PROHIBITIONS.—A student is
 101 not eligible for a John M. McKay Scholarship ~~while he or she is:~~

102 (a) While he or she is enrolled in a school operating for
 103 the purpose of providing educational services to youth in
 104 Department of Juvenile Justice commitment programs;

105 (b) While he or she is receiving a Florida tax credit
 106 scholarship under s. 1002.395;

107 (c) While he or she is receiving an educational
 108 scholarship pursuant to this chapter;

109 (d) While he or she is participating in a home education
 110 program as defined in s. 1002.01(1);

111 (e) While he or she is participating in a private tutoring
 112 program pursuant to s. 1002.43;

113 (f) While he or she is participating in a virtual school,
 114 correspondence school, or distance learning program that
 115 receives state funding pursuant to the student's participation
 116 unless the participation is limited to no more than two courses
 117 per school year;

118 (g) While he or she is enrolled in the Florida School for
 119 the Deaf and the Blind; ~~or~~

120 (h) While he or she is not having regular and direct
 121 contact with his or her private school teachers at the school's
 122 physical location; or

123 (i) If he or she has been issued a temporary 504
 124 accommodation plan under s. 504 of the Rehabilitation Act of
 125 1973 which is valid for 6 months or less.

126 (5) SCHOOL DISTRICT OBLIGATIONS; PARENTAL OPTIONS.—

127 (a)1. By April 1 of each year and within 10 days after an
 128 individual education plan meeting or a 504 accommodation plan is
 129 issued under s. 504 of the Rehabilitation Act of 1973, a school
 130 district shall notify the parent of the student of all options
 131 available pursuant to this section, inform the parent of the
 132 availability of the department's telephone hotline and Internet
 133 website for additional information on John M. McKay
 134 Scholarships, and offer that student's parent an opportunity to
 135 enroll the student in another public school in ~~within~~ the
 136 district.

137 2. The parent is not required to accept the offer of
 138 enrolling in another public school in lieu of requesting a John

139 M. McKay Scholarship to a private school. However, if the parent
 140 chooses the public school option, the student may continue
 141 attending a public school chosen by the parent until the student
 142 graduates from high school.

143 3. If the parent chooses a public school consistent with
 144 the district school board's choice plan under s. 1002.31, the
 145 school district shall provide transportation to the public
 146 school selected by the parent. The parent is responsible to
 147 provide transportation to a public school chosen that is not
 148 consistent with the district school board's choice plan under s.
 149 1002.31.

150 (e) The parent of a student may choose, as an alternative,
 151 to enroll the student in and transport the student to a public
 152 school in an adjacent school district which has available space
 153 and has a program with the services agreed to in the student's
 154 individual education plan or 504 accommodation plan already in
 155 place, and that school district shall accept the student and
 156 report the student for purposes of the district's funding
 157 pursuant to the Florida Education Finance Program.

158 (10) JOHN M. MCKAY SCHOLARSHIP FUNDING AND PAYMENT.—

159 (a)1. The maximum scholarship granted for an eligible
 160 student with disabilities shall be equivalent to the base
 161 student allocation in the Florida Education Finance Program
 162 multiplied by the appropriate cost factor for the educational
 163 program that would have been provided for the student in the
 164 district school to which he or she was assigned, multiplied by
 165 the district cost differential.

166 . 2. In addition, a share of the guaranteed allocation for
167 exceptional students shall be determined and added to the amount
168 in subparagraph 1. The calculation shall be based on the
169 methodology and the data used to calculate the guaranteed
170 allocation for exceptional students for each district in chapter
171 2000-166, Laws of Florida. Except as provided in subparagraphs
172 3. and 4., the calculation shall be based on the student's
173 grade, matrix level of services, and the difference between the
174 2000-2001 basic program and the appropriate level of services
175 cost factor, multiplied by the 2000-2001 base student allocation
176 and the 2000-2001 district cost differential for the sending
177 district. The calculated amount shall include the per-student
178 share of supplemental academic instruction funds, instructional
179 materials funds, technology funds, and other categorical funds
180 as provided in the General Appropriations Act.

181 3. The scholarship amount for a student who is eligible
182 under sub-subparagraph (2)(a)2.b. shall be calculated as
183 provided in subparagraphs 1. and 2. However, the calculation
184 shall be based on the school district in which the parent
185 resides at the time of the scholarship request.

186 4. Until the school district completes the matrix required
187 by paragraph (5)(b), the calculation shall be based on the
188 matrix that assigns the student to support level I of service as
189 it existed prior to the 2000-2001 school year. When the school
190 district completes the matrix, the amount of the payment shall
191 be adjusted as needed.

192 5. The scholarship amount for a student eligible under s.
193 504 of the Rehabilitation Act of 1973 shall be based on the

CS/HB 1329

2011

194 | program cost factor the student currently generates through the
195 | Florida Education Finance Program.

196 | Section 2. This act shall take effect July 1, 2011.